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[REDACTED]

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/161565

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**PRELIMINARY RECITALS**

Pursuant to a petition filed October 29, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Washington County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on November 18, 2014, at West Bend, Wisconsin.

NOTE: The record was held open to give Washington County (the agency) an opportunity to submit records concerning the medical expenses previously allowed for Petitioner. The agency faxed a packet on November 18, 2014, that included a brief explanation, Medical Expenses printouts from the CARES system and a Food Stamp History Issuance History – Disbursement printout. The packet has been marked as Exhibit 6 and entered into the record.

The issue for determination is whether the agency correctly calculated the Petitioner's FoodShare benefits, effective December 1, 2014.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

I

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Kenneth Benedum, Economic Support Specialist  
Washington County Department of Social Services  
333 E. Washington Street  
Suite 3100  
[REDACTED] WI 53095

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

### FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Washington County.
2. On November 5, 2013, the Petitioner filed an appeal in case FOO-153299 to contest the reduction of his FoodShare benefits effective December 1, 2013. The heart of the dispute related to whether the agency should have allowed an excess medical expense deduction for the bills submitted by the Petitioner. (DHA records)
3. On February 7, 2014, the Division of Hearings and Appeals issued a decision in case FOO-153299, directing the agency to review medical expenses from [REDACTED], [REDACTED] Services, [REDACTED] Corporation and [REDACTED] Center to see if they had been allowed during a previous certification period. If the expenses had not been used during a previous certification period, the agency was directed to allow them as a deduction when determining the Petitioner's FoodShare allotment for the certification period beginning December 2013. (DHA records)
4. The bill from [REDACTED], for services rendered at [REDACTED] Hospital, St. [REDACTED] Hospital, [REDACTED] Clinic, and [REDACTED] Clinic, which totaled \$32,723.24. (see Exhibit 4)
5. Apparently, the agency had allowed a deduction of \$10,000 per month for the [REDACTED] bill effective August 2013 and October 2013, which resulted in the Petitioner receiving the maximum FoodShare allotment. (Exhibit 6)
6. On March 2014, the agency determined that it was appropriate to allow \$3272.32 per month for the [REDACTED] medical expense, until November 2014. This also resulted in the Petitioner receiving the maximum Foodshare allotment. (Exhibit 6)
7. When the Petitioner conducted his renewal in October 2014, the agency removed an excess medical deduction from his case. (Testimony of Mr. Benedum)
8. On October 10, 2014, the agency sent the Petitioner a notice, indicating that his Foodshare benefits would be reduced from \$194.00 per month to \$16.00 per month. (Exhibit 3)
9. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on October 29, 2014. (Exhibit 1)
10. As of October 23, 2014, the Petitioner still owed \$26,072.85 to [REDACTED], but only one charge was "new", a charge from St. [REDACTED] Community Hospital for \$393.93, for services rendered on February 6, 2013. (Exhibit 2)
11. On June 16, 2014, the Petitioner received a bill for \$1,462.25, including interest charges of \$21.61. (Exhibit 2)327

### DISCUSSION

To receive FoodShare benefits a household must have income below gross and net income limits though the gross income test does not apply where a household has a member over age 60. *7 Code of Federal Regulations (CFR), §273.9(b); FoodShare Wisconsin Handbook (FSH), § 1.1.4.* The agency must budget all income of the FS household, including all earned and unearned income. *7 CFR § 273.9(b); FoodShare Wisconsin Handbook (FSH), § 4.3.1.* The allotment calculation is based on prospectively budgeted monthly income using estimated amounts. *FSH, §4.1.1.*

Once a household passes the gross income test the following deductions are applied in determining the FoodShare allotment. (*FSH, at § 4.6*):

- (1) a standard deduction –

This is \$152 per month for a household of 1-3 people. 7 *CFR* § 273.9(d)(1):

- (2) an earned income deduction - which equals 20% of the household's total earned income, 7 *CFR* § 273.9(d)(2);
- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, 7 *CFR* § 273.9(d)(3);
- (4) dependent care deduction for child care expenses, 7 *CFR* § 273.9(d)(4); and
- (5) shelter and utility expenses deduction the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 *CFR* § 273.9(d)(5).

The heating standard utility allowance (HSUA) is \$450.

There is a cap of \$478.00 on the shelter cost deduction, *unless* a household has an elderly, blind or disabled member.

*FSH*, §§ 4.6.7.1 and 8.1.3.

The term ‘disabled’ is a term with a definition as to the FoodShare program:

### **3.8.1.1 EBD Introduction**

An elderly individual is a food unit member age 60 or older.

A disabled individual is a food unit member who receives disability or blindness benefits from any of these programs: [SSA](#), [MA](#), [SSI](#) or SSI related MA, Railroad Retirement Board ([RRB](#)).  
*FSH*, §3.8.1.1.

It is undisputed that the Petitioner’s FoodShare allotment went down when he renewed his benefits in October 2014, because the agency removed a medical expense deduction. The Petitioner filed an appeal because he believes the agency should have allowed some medical expenses.

The rules governing the use of medical expenses are found in *FSH* §4.6.4.1 which states that medical expenses are allowable when:

1. They are previously acquired before the current certification period AND not yet paid, or
2. They are acquired during the current certification period, or
3. They are current payments, made during the current certification period.
4. They have not been previously allowed as a Food Share Deduction.

“One time medical expenses (i.e. hospital bills) can be budgeted for one month or averaged over the remaining certification period.” *FSH* §4.6.4.1

“Medical expenses paid prior to the certification period are not allowable.” (Id.)

[REDACTED]

It is unclear why the agency allowed a \$10,000 per month deduction for the [REDACTED] bill in August and October 2013, and then reverted to a \$3272.32 per month deduction for the same bill between March 2014 and November 2014. However, the fact remains that the agency already allowed the \$32,723.24 bill to be

used during the prior certification period and this resulted in the Petitioner receiving the maximum FoodShare allotment. (See Exhibit 6)

However, comparing Exhibit 2 (the 2014 [REDACTED] bill) to Exhibit 4 (the 2013 [REDACTED] bill), it appears that \$383.93 of the most recent [REDACTED] bill is a new charge and was not included in the bill previously used by the agency. As such, the \$383.93 should be allowed as a deduction at this time.

[REDACTED] *HEALTHCARE*

The agency provided a separate bill from [REDACTED] Healthcare, but it appears it might be duplicative of the charges within the [REDACTED] bill, which according to the most recent billing statement, are no longer outstanding. As such, they are not allowable for the current certification period.

[REDACTED] *SERVICES and* [REDACTED]

There is no indication in the record that medical expenses related to the bills from [REDACTED] Services and [REDACTED] Corporation have been previously allowed as a deduction. As such, these bills might be allowable, if they are still outstanding, or if they have been paid off during the current certification period.

**If the Petitioner wishes to have this bill considered, the Petitioner must provide documentation to the agency showing that the bills are still outstanding or have been paid off during the current certification period.**

[REDACTED] *CENTER*

The Petitioner provided documentation in Exhibit 2 that the [REDACTED] Center bill is still owed; as such, it is an allowable expense. However, per FSH §4.6.4.2, interest charges are not allowable as a medical expense. Consequently, the \$1223.00 balance from the 2013 bill, which shows no interest charges, should be allowed.

[REDACTED]

The agency provided a bill dated May 13, 2013 from [REDACTED] for \$1,444.00. (Exhibit 4) There is no indication in the record that this bill was previously allowed. As such, this bill might be allowable, if it is still outstanding.

**If the Petitioner wishes to have this bill considered, the Petitioner must provide documentation to the agency showing that the bills are still outstanding or have been paid off during the current certification period.**

[REDACTED] *CLINIC*

The Petitioner provided a bill dated July 22, 2014, from Professional Placement Services for services provided at [REDACTED] Clinic, in the amount of \$1624.00. (Exhibit 2) This should be allowed as a deduction for the current certification period.

*LAW OFFICE OF JOEL CARDIS and WAUKESHA COUNTY DEPARTMENT OF ADMINISTRATION*

The Petitioner provided bills from the Law Offices of Joel Cardis and Waukesha County Department of Administration, which the Petitioner states are for ambulance services and inpatient psychiatric treatment. (Exhibit 2) However, those bills do not make clear what they are for and as such, cannot be allowed as a medical expense at this time. In addition, according to the decision issued on February 7, 2014, in case FOO153299, the agency already allowed a bill totaling \$1,730.00 for ambulance services.

**In summary:**

The expenses already allowed / no longer allowable:

1. [REDACTED] charges, except for the \$383 new charge reflected for St. [REDACTED] hospital on the October 23, 2014 bill. The total already allowed per the June 28, 2013 bill was \$32,723.24.
2. \$1,730 bill for ambulance services through the City of [REDACTED]
3. [REDACTED] Healthcare, it appears those charges were taken care of through the [REDACTED] bill and are no longer outstanding.

Might be allowable if still due and owing:

1. [REDACTED] Services (bill originally provided to agency on November 4, 2013)
2. [REDACTED] Corporation (bill originally provided to agency on November 4, 2013)
3. \$1444.00 [REDACTED]

**If the Petitioner wants the agency to consider these medical expenses for the remainder of the 12-month certification period, he will have to provide verification to the agency that the expenses are still due and owing or that he has paid them off during the current certification period.**

Other expenses that require additional verification, if Petitioner wants them considered:

1. Bill from the Law Offices of Joel Cardiff – requires verification to 1) make sure it is for ambulance services and 2) not duplicative of the \$1,730.00 City of [REDACTED] bill already allowed.
2. Bill from Waukesha County of Department of Administration – requires verification that the bill is for charges related to psychiatric admissions.

The current allowable medical expenses are:

1. \$383.00 new charge through [REDACTED] for services rendered at St. [REDACTED] Community Hospital.
2. \$1223.00 [REDACTED] Care (interest charges are not allowable, only the amount shown on the 2013 bill will be allowed)
3. \$1624.00 from [REDACTED] Clinic

This totals \$3230. Divided by 12 months in Petitioner's certification period, we get a monthly deduction of \$269.17 per month.

The agency will have to recalculate the Petitioner's Foodshare allotment, using this deduction. If the Petitioner still disagrees with the agency's calculation, the Petitioner will have to file a NEW appeal.

### **CONCLUSIONS OF LAW**

Washington County erred by not allowing a medical expense deduction for the Petitioner.

**THEREFORE, it is**

**ORDERED**

That the agency re-calculate the Petitioner's FoodShare allotment, effective December 1, 2014, allowing for a \$269.17 per month deduction for medical expenses for the 12-month certification period, beginning December 1, 2014. The agency shall issue to the Petitioner a new notice of decision, advising the Petitioner of the new determination. The agency shall take all administrative steps necessary to complete this task within 10 days of this decision.

**REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

**APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

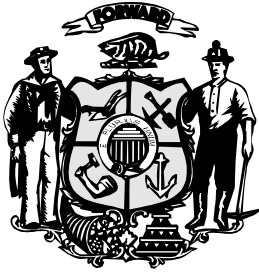
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 10th day of December, 2014.

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\sMayumi M. Ishii  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on December 10, 2014.

Washington County Department of Social Services  
Division of Health Care Access and Accountability